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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Written statement submitted by Human Rights Advocates, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with ECONOMIC AND SOCIAL COUNCIL resolution 1296 (XLIV).

[3 March 1998]

GE.98-10869 (E)

A call upon States to work towards abolishing the death penalty for juveniles

1. Human Rights Advocates (HRA) supports and encourages the work of the Special Rapporteur on extrajudicial, summary, or arbitrary executions in the effort to abolish the death penalty. HRA recommends that States continue cooperating with the Special Rapporteur and strive towards worldwide abolition of capital punishment, especially as it pertains to juveniles.

2. Since 1990, five countries have executed persons who were under the age of 18 at the time of their capital offence. These countries are: Iran (Islamic Republic of), Pakistan, Saudi Arabia, United States, and Yemen. 1/ The United Arab Emirates also retains a death penalty for juvenile offenders, but it is unclear whether any have been executed in recent years.

3. Yemen last executed a juvenile in 1993 who was merely 13 at the time of his offence. However, in 1994, Yemen instituted a new model penal code which raised the minimum age for the death penalty to 18. 2/ Although little is known about the application of this law, Yemen should be commended for bringing its laws into compliance with international standards.

4. Arguably, with only five countries currently utilizing a juvenile death penalty, 3/ a practice prohibited by the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child, the abolition of the juvenile death penalty should be considered customary international law. That conclusion is bolstered by the fact that the prohibition against applying the death penalty to juvenile offenders is non-derogable. Even most countries that have not abolished the death penalty have done so for offenders younger than 18 years of age.

United States of America

5. The United States ratified the ICCPR in 1992 with a reservation to article 6. 4/ The United States is, by far, the worst offender with nine juvenile executions since the death penalty was reinstated in that country in 1976. 5/ Currently, there are 67 juveniles on death row in the United States. Two thirds of the juvenile offenders are minorities, and nearly two thirds of the victims were white. 6/ Twenty-four of the 38 states in the United States which authorize use of the death penalty have the minimum age for death penalty eligibility set below 18. 7/ The Supreme Court ruled that 15-year-olds were too young to receive a death sentence, but has expressly allowed juveniles of 16 and 17 to be sentenced to death. 8/

6. Twenty-six of the 67 juvenile offenders on death row reside in Texas. Of that 26, 22 are members of minorities. 9/ The typical juvenile offender on death row is either an African-American or Hispanic male who committed the crime at age 17 against a white adult victim. 10/

7. In the past decade, the overall death row population in the United States has risen by 165 per cent and the number of juvenile offenders under a death sentence has risen by 103 per cent. 11/ Clearly, the United States is rapidly moving away from the international goal of abolishing the death penalty. The United States is also one of only two countries (the other being Somalia) which has yet to ratify the Convention on the Rights of the Child.

Other violators

8. The Islamic Republic of Iran ratified the ICCPR in 1976 and the Convention on the Rights of the Child in 1994. To date it is unclear how many juvenile offenders are on death row, but it has been documented that at least one juvenile offender was executed in 1990 and three in 1992. 12/ Amnesty International reported the story of a 15-year-old girl who was sentenced to death in 1993, but at the time of its May 1995 report, it was unknown whether she had been executed. 13/ Iran has been reluctant to provide detailed information to the Special Rapporteur on extrajudicial, summary or arbitrary executions. 14/ The Special Representative, in his report to the Commission in 1996, requested that the Iranian Government provide official information on the number of executions that had been carried out since the beginning of the Iranian year 1373. 15/

9. Saudi Arabia has not yet ratified the ICCPR, but ratified the Convention on the Rights of the Child in 1996, without reservations. It is unknown how many juveniles have been executed in the last decade, or how many currently sit on death row. However, records indicate that at least one juvenile offender was executed in 1992, 16/ and that those awaiting execution could include a group of Pakistani nationals, including children as young as five, held in secrecy on drug offences. 17/ In his 1996 report, the Special Rapporteur on extrajudicial, summary, or arbitrary executions noted with regret that he had received no replies from the Government to his inquiries on these issues. 18/

10. Pakistan has not yet ratified the ICCPR, but ratified the Convention on the Rights of the Child in 1990. It is unknown how many juvenile offenders are currently on death row in Pakistan, but the last known juvenile to be executed was Shamun Masih, in 1997, who received the death sentence in 1991 for an armed robbery and triple murder he committed with Javed Masih (also executed, but no age given) when he was 14 years old. 19/ Currently, Pakistan has no minimum age set at which one can be sentenced to death. However, in 1995, the Child Offenders Bill was introduced into Parliament which would set 16 as the minimum age for death penalty eligibility. 20/ Although this is a step in the right direction, it still falls short of the standard set by the ICCPR and the Convention on the Rights of the Child, limiting death penalty eligibility to those over 18 at the time of the offence.

11. The United Arab Emirates ratified the Convention on the Rights of the Child in 1997, without reservations, but it has not yet ratified the ICCPR. The country still retains national legislation which allows minors to be eligible for the death penalty. 21/ The Special Rapporteur on extrajudicial, summary, or arbitrary executions regretfully had not received a reply from the Government at the time of his 1996 report.

Recommendations

12. As to the five countries listed, HRA recommends that the Commission request that they submit progress reports to the Commission every year beginning at the 1999 session. These reports would detail the progress that country is making in its efforts to educate its public about the juvenile death penalty and the international treaties which condemn it. The reports

would also detail the progress that each country is making in setting statutory minimum age limits at 18 for death penalty eligibility and in commuting or overturning current juvenile death sentences.

13. HRA recommends that the Commission urge the United States to revoke its reservation to article 6 of the ICCPR and ratify the Convention on the Rights of the Child without reservation.

14. HRA recommends that the Commission request that the United States provide detailed reports on the steps taken to inform and educate each of its states about the requirements of the ICCPR. HRA further recommends that the Commission appeal to the United States Government to take specific steps to ensure compliance with the ICCPR. One suggestion would be legislation denying federal funding for prisons and law enforcement agencies to states which retain a death penalty for juvenile offenders.

15. HRA recommends that the Commission urge the Islamic Republic of Iran to provide official information requested by the Special Rapporteur on extrajudicial, summary, or arbitrary executions and to include specific information on the age of the offender, the type of crime committed, the method of execution, and the race, ethnicity, or religious background of the victim and the offender.

16. HRA recommends that the Commission urge Saudi Arabia, Pakistan and the United Arab Emirates to ratify the ICCPR without reservations.

17. HRA recommends that the Commission implore all States to cooperate fully with the efforts of the Special Rapporteur on extrajudicial, summary, or arbitrary executions and provide all information requested.

18. HRA recommends that the Commission request that countries follow the lead of the European Parliament and refuse to hold meetings, conventions, etc. in countries which retain a death penalty. 22/

Notes

1/ Amnesty International, *Juveniles and the Death Penalty: Executions Worldwide Since 1985*, AI Index: ACT 50/05/95, August 1995.

2/ Amnesty International Country Report: Yemen, AI Index: MDE 31/01/97.

3/ In Amnesty International's report on the juvenile death penalty, the following countries were listed as having executed juveniles since 1985: Bangladesh, Iran (Islamic Republic of), Iraq, Nigeria, Pakistan, Saudi Arabia, United States and Yemen. It is not recorded in this or other recent reports whether the laws have been changed in Bangladesh, Iraq or Nigeria, but no reports indicate that juveniles have been executed in those countries in the last ten years. If the laws still allow for juvenile eligibility for the death penalty, HRA recommends that the Commission urge those countries to implement laws setting 18 as the minimum age for death penalty eligibility.

4/ At its fifty-third session, the Human Rights Committee concluded that the reservations were incompatible with the ICCPR and recommended that they be withdrawn (see CCPR/C/79/Add.50, paragraph 27).

5/ Victor Streib, *Death Sentences and Executions for Juvenile Crimes Over the Last Quarter Century, 1973-1997*, 1998, p.4, table 1.

6/ Ibid, p.12, table 6.

7/ Ibid, p.5, table 2.

8/ Thompson v. Oklahoma, 487 U.S. 815 (1988) and Stanford v. Kentucky, 492 U.S. 361 (1989).

9/ Streib, op.cit., pp. 23-25, appendix B.

10/ Ibid., p.11.

11/ Ibid.

12/ Amnesty International, op.cit. at note 1, pp. 8-9.

13/ Amnesty International, *Iran: Official Secrecy Hides Continuing Repression*, AI Index: MDE 13/02/95.

14/ See E/CN.4/1996/4, paragraph 265.

15/ See E/CN.4/1996/59, paragraph 47.

16/ Amnesty International, op.cit. at note 1, pp. 8-9.

17/ Amnesty International, AI Index: MDE 23/07/97, July 1997.

18/ See E/CN.4/1996/4, paragraph 265.

19/ Amnesty International Country Report: Pakistan - the Death Penalty, AI Index: ASA 33/10/96, September 1996.

20/ Ibid.

21/ See E/CN.4/1996/4, paragraph 499.

22/ European Parliament member Lucio Manisco, Vice-Chairperson of the delegation for relations with the United States, wrote to his congressional counterpart that the European Parliament found it totally unacceptable to hold its meeting with the United States in Houston, Texas. They deemed Texas as the "execution capital" of the United States, and suggested alternative venues in states which have not reinstated the death penalty.
See http://www.yahoo.com/headlines/980204/news/stories/tucker_15.html.

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